# Proposition Judicial Guard

*Authored By: Jessica Jamie - www.jessicaj.studio and Reddit: u/JessicaPink703*

## Introduction:

Democracies never slide into autocracies by themselves overnight, it happens by gradually eroding the rule of law until it's too late to turn back. On February 3, 2026, DOJ attorney Julie Le told Judge Blackwell that ICE was refusing to carry out court-ordered habeas releases even when she instructed them to do so, and that she had no practical ability to make the agency comply. Every time this happens in systems with an independent judiciary like ours, judicial orders being defied and unenforced is what finally causes us to cross that thin line between democracy and autocracy. Letting an executive actor illegally keep people in jail for whatever reason, however long, or under whatever conditions they want is the most acute example of this danger playing out in real time. Future free elections, free governance, and due process itself hang in the balance if we do not act now to preserve our rule of law. We have seen this vulnerability before in our country: in *Ex parte Merryman* (1861), the Chief Justice issued a habeas release order that the executive branch simply refused to obey.

We have a narrow opportunity in the United States of America to reassure our courts that they are not powerless to enforce their orders and the rule of law without the Executive Branch, because the State Police without interference under new Supreme Court precedent can legally be at their disposal upon their request in a break-glass-in-case-of-emergency option. The courts don't have to use this option up for it to act as an **effective deterrent** for a rogue President, causing the incentive for the Attorney General ordering the Marshalls to stand down to evaporate. The only goal of this proposition is to get at least one US Governor to publicly state this sentence, either via media appearance or press office statement:
**"Our State Police will voluntarily be available should any federal court ever need to request Rule 70(a) assistance under the Federal Rules of Civil Procedure in enforcing their orders; or if they are in need of additional security."**

## Overview:

Attorney Mark Elias of Democracy Docket pointed out early in Trump's second term that Rule 70(a) titled "Enforcing a Judgment for a Specific Act" of the Federal Rules of Civil Procedure state the following:
"(a) *Party's Failure to Act; Ordering Another to Act.* If a judgment requires a party to convey land, to deliver a deed or other document, or to **perform any other specific act** and the **party fails to comply within the time specified**, the court may **order the act to be done**—at the disobedient party's expense—by **another person appointed by the court**. When done, the act has the same effect as if done by the party."

This framework ensures that if the Attorney General were to instruct federal Marshals not to carry out a court's order, the court would retain its longstanding authority to appoint another person to do so—including any willing private citizen under Rule 70(a). After *Trump v. Illinois*, the Supreme Court further limited the President's ability to federalize state National Guard units without a Governor's consent, except in narrow circumstances. This matters because it prevents the President from federalizing a state's National Guard to obstruct or override the actions of state police officers acting under a federal court's appointment. Within this cooperative structure, a federal court, with the voluntary authorization of a state Governor, may appoint a ranked command officer—such as a Captain, Major, or equivalent—who can deploy the personnel, specialized units, and resources necessary to execute the order through their existing chain of command.

Federal courts already use this model in closely related contexts: they routinely appoint a single individual who then operates through an existing organizational hierarchy. Under Rule 4.1(a), for example, court-appointed receivers and special masters direct staff, accountants, security personnel, and contractors in carrying out judicial instructions. The U.S. District Court for the District of Minnesota likewise designates county sheriffs and deputy sheriffs to "serve, execute, or enforce civil process," allowing the appointed sheriff to act through their normal chain of command when executing federal directives. Consequently, any presidential order to use the military to obstruct such a court-appointed officer would itself be unlawful, triggering the legal duty of every officer in the chain of command to disobey it.

## Conclusion:

We stand at the precipice that our history has long warned us about: a moment where the government, armed with the power to imprison, defies the judiciary's command to release. The testimony of DOJ attorney Julie Le laid bare a chilling reality—that the machinery of justice can be brought to a standstill not by law, but by sheer will. When a person granted their freedom by a judge's order remains locked away, the Constitution does not whisper; it is silenced.

This is precisely why the founders embedded within our system a final, sovereign safeguard: **the states**. They are not mere administrative units, but vital pillars of the republic, designed to retain the authority and duty to protect their citizens when the federal power overreaches or breaks down. In this moment of federal failure, the states, acting in concert with the judiciary, become the people's last constitutional recourse—the final barrier against autocracy.

The time for merely speaking out is over. We must now activate every lawful safeguard our founders so carefully designed. In America, the people themselves are the ultimate sovereign that all authority must answer to under the rules, laws, and systems they and their representatives so carefully designed. The key to an unlawfully held cell must never rest solely in the hands of those who have chosen to defy justice itself.

Our democracy lives another day only if we choose to defend it—through every branch, and in every state, as the Constitution and our laws allow. **This is how we defend it**.